

Message Text

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ORIGIN OES-07

INFO OCT-01 EUR-12 IO-13 ISO-00 L-03 ACDA-07 ERDA-05

SIG-01 AF-10 ARA-06 CIAE-00 DODE-00 EA-07 PM-04

H-01 INR-07 NASA-01 NEA-10 NSAE-00 NSC-05 OIC-02

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L/OES - R BETTAUER

T/D - E MCGAFFIGAN

EUR/RPE - SALISBURY

IO/SCT - A JILLSON

EUR/CAN - C CLEMENT

ACDA - C VAN DOREN

ERDA - G HELFRICH/BRUSH L/ERDA

ERDA - BENGELSDORF

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FM SECSTATE WASHDC

TO AMEMBASSY BRUSSELS PRIORITY

AMEMBASSY COPENHAGEN PRIORITY

AMEMBASSY DUBLIN PRIORITY

AMEMBASSY OTTAWA PRIORITY

USMISSION IAEA VIENNA PRIORITY

AMEMBASSY VIENNA PRIORITY

INFO AMEMBASSY LONDON PRIORITY

AMEMBASSY PARIS PRIORITY

AMEMBASSY THE HAGUE PRIORITY

AMEMBASSY LUXEMBOURG PRIORITY

AMEMBASSY ROME PRIORITY

AMEMBASSY BONN PRIORITY

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USEEC ACTION, EMB BRUSSELS INFO

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E.O. 11652: GDS

TAGS: TECH, EC

SUBJECT: NON-PROLIFERATION ACT OF 1977

REF: EC BRUSSELS 4284

1. COPIES OF FULL TEXT OF PROPOSED NON-PROLIFERATION POLICY ACT OF 1977 EXPECTED TO BE AIR-POUCHED WITHIN NEXT FEW DAYS.

2. CONSISTENT WITH U.S. POLICY AND AS PROVIDED IN BILL, WE PLAN TO SEEK IN DUE COURSE FROM EC AS WELL AS ALL OTHER NATIONS WITH WHICH WE CURRENTLY HAVE AGREEMENTS ACCEPTANCE OF CERTAIN CONDITIONS WHICH WOULD BE MANDATORY FOR NEW U.S. AGREEMENTS (UNLESS WAIVED BY THE PRESIDENT WITH THE TACIT CONSENT OF THE CONGRESS). THE EXTENT TO WHICH WE WILL PUSH THE EC TO ACCEPT ALL OF THESE CONDITIONS, AS ENUMERATED IN SECTION 401 (PARTICULARLY THE QUESTION OF INTRACOMMUNITY TRANSFERS) HAS NOT BEEN DETERMINED. IT IS NOT THE PRESENT PLAN TO BEGIN OUR PROGRAM OF RENEGOTIATION BEFORE ENACTMENT OF THE LEGISLATION, IN LIGHT OF A NUMBER OF SUBSTANTIVE DIFFERENCES BETWEEN THE ADMINISTRATION'S BILL AND CONGRESSIONALLY INITIATED LEGISLATION ALREADY INTRODUCED IN BOTH HOUSES ON THIS SUBJECT.

3. SECTION 503 OF THE ADMINISTRATION'S BILL SETS OUT SIX MANDATORY CRITERIA WHICH MUST BE MET IMMEDIATELY UPON ENACTMENT IF AN NRC EXPORT LICENSE IS TO BE ISSUED (OR A GOVERNMENT TRANSFER MADE). IN GENERAL, EXPORT LICENSE APPLICATIONS WILL BE ABLE TO MEET THESE CRITERIA UNDER EXISTING AGREEMENTS FOR COOPERATION. THE MOST NOTABLE EXCEPTIONS ARE EXPORTS OF NUCLEAR MATERIAL AND FACILITIES TO THE EC AND THE IAEA, UNDER WHICH THE U.S. HAS NO APPROVAL RIGHTS WITH RESPECT TO (A) RETRANSFERS, INCLUDING

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MATERIAL GENERATED FROM THE USE OF US-SUPPLIED MATERIAL (IN THE CASE OF THE EC, WE HAVE SUCH AGREEMENT RIGHTS WITH RESPECT TO RETRANSFERS FROM THE COMMUNITY, BUT NOT TO INTRA-COMMUNITY TRANSFERS) AND (B) REPROCESSING OF US-SUPPLIED MATERIAL OR MATERIAL GENERATED THEREFROM. (THE OTHER EXCEPTION IS CANADA WHERE OUR AGREEMENT ONLY GIVES THE U.S. A RIGHT OF FIRST REFUSAL ON SPECIAL NUCLEAR MATERIAL GENERATED FROM U.S.-SUPPLIED ENRICHED URANIUM WHICH CANADA MAY WISH TO TRANSFER AND INCLUDES NO PROVISION FOR U.S. APPROVAL OF REPROCESSING.)

4. A "SAVING CLAUSE" IS PROVIDED FOR GROUPS OF NATIONS UNDER WHICH THE FOREGOING REQUIREMENTS NEED NOT REPEAT NOT BE MET "IF NATIONS OR GROUPS OF NATIONS" BOUND BY THE EC AND IAEA AGREEMENTS "HAVE AGREED TO NEGOTIATIONS AS CONTEMPLATED IN SECTION 403 OR WHILE THE COMMITMENTS IN SUCH AGREEMENTS ARE UNDER NEGOTIATIONS." (IN THE CASE OF CANADA, WE WILL HAVE TO SEEK TO OBTAIN THESE U.S. RIGHTS THROUGH SOME FORM OF INTERGOVERNMENTAL ARRANGEMENT IF

EXPORTS TO CANADA ARE TO CONTINUE DURING THE PERIOD OF RENEGOTIATION OF OUR EXISTING AGREEMENT.) THIS IS THE "EXCEPTIONS FOR LICENSES UNDER MULTINATION AGREEMENTS" WHICH WAS REFERRED TO IN PARAGRAPH 5 OF THE FACT SHEET. AS INDICATED ABOVE, EC DOES NOT REPEAT NOT CURRENTLY MEET THE THIRD AND FOURTH CONDITIONS IN PARAGRAPH 2 OF FACT SHEET BUT, AS A RESULT OF THE EXC:PTION, EXPORTS WOULD BE ABLE TO CONTINUE UPON AGREEMENT TO NEGOTIATE. OF COURSE, IT SHOULD BE BORNE IN MIND THAT ANY OR ALL OF THESE PROVISIONS ARE SUBJECT TO CHANGE BEFORE THIS (OR ONE OF THE OTHER) NON-PROLIFERATION BILLS BECOME LAW.

CONDITIONS FOR NEW AGREEMNTS SET OUT IN

5. OF THE NINE CONDITIONS FOR NEW AGREEMENTS SET OUT IN SECTION 403, IT IS OUR JUDGMENT THAT ONLY THOSE RELATED TO U.S. APPROVAL OVER REPROCESSING AND POSSIBLY RETRANS-
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FERS (IF IN FACT THIS CONDITION INTERPRETED TO INCLUDE INTRA-COMMUNITY TRANSFERS ON WHICH NO DECISION YET MADE) WILL BE DIFFICULT FOR THE EC TO ACCEPT. WHILE, AS INDICATED NO DECISION ON INTRA-COMMUNITY RETRANSFERS HAS BEEN MADE, NUCLEONICS WEEK HAS REPORTED THAT DURING NYE'S SALZBURG PRESS CONFERENCE HE INDICATED U.S. WOULD ATTEMPT TO RENEGOTIATE EC AGREEMENT TO GIVE US CONTROL OVER DISPOSITION OF U.S.-ORIGIN NUCLEAR MATERIAL IRRADIATED IN COMMUNITY.

6. UPON COMPLETION OF UNSPECIFIED PERIOD OF RENEGOTIATION OF ALL EXISTING AGREEMENTS, OR AT SUCH TIME AS ANY INTERNATIONAL ARRANGEMENTS OR OTHER MUTUAL UNDERTAKING TO ONE OR MORE OF THE CONDITIONS FOR NEW AGREEMENTS IS ACHIEVED (E.G., AGREEMENT AMONG THE MAJOR SUPPLIERS TO REQUIRE FULL-SCOPE IAEA SAFEGUARDS OR SUPPLIER CONTROL OVER DISPOSITION OF FURNISHED MATERIALS), THE PRESIDENT WOULD BE REQUIRED UNDER ADMINISTRATION'S BILL TO PROPOSE THAT SUCH CONDITION(S) BE ADDED TO THE LIST OF MANDATORY LICENSING CRITERIA.

7. DURING RECENT LONDON SUPPLIERS' MEETING, MEMBER OF U.S. DELEGATION INFORMALLY EXPLAINED TO MEMBERS OF FRENCH, U.K. AND FRG DELEGATIONS PROPOSED EXPORT LICENSE CRITERIA AND NEED FOR RELATED COMMITMENT BY EC OR ITS MEMBER STATES TO NEGOTIATE ON ADDITIONAL CONDITIONS TO MEMBERS OF FRENCH, U.K. AND FRG DELEGATIONS. IN GENERAL, THEY INDICATED THAT THIS SHOULD CREATE NO PROBLEM SO LONG AS AGREEMENT TO NEGOTIATE DID NOT IMPLY ULTIMATE ACCEPTANCE OF SUCH CONDITIONS. THEY WERE ASSURED THAT OUTCOME OF NEGOTIATIONS WOULD NOT REPEAT NOT BE PREJUDICED AND ONLY REQUIREMENT

WAS GOOD FAITH COMMITMENT TO NEGOTIATE.

8. INFO CONTAINED IN PARAS 2 THROUGH 7 IS PROVIDED AS
BACKGROUND FOR MISSION AND IN RESPONSE TO QUESTIONS
RAISED IN REFTEL. WE ARE AWARE FROM CONVERSATIONS WITH
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EC DELEGATION IN WASHINGTON THAT EC STAFF IS WORKING ON
STUDY COVERING QUESTION OF NEGOTIATIONS WITH U.S. RELATED
TO OUR REVISED NON-PROLIFERATION POLICIES. MISSION SHOULD
NOT REPEAT NOT TAKE ANY INITIATIVES TOWARD EC ON THIS
MATTER UNTIL SO INSTRUCTED. VANCE

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